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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/615,363	07/13/2000	Eric A. Bunn	A-68295/MAK/LM	3752

7590 09/23/2003
Flehr Hohbach Test
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Suite 3400
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San Francisco, CA 94111-4187

EXAMINER

THOMPSON JR, FOREST

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/615,363	BUNN ET AL.	
	Examiner	Art Unit	
	Forest Thompson Jr.	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 July 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action (See Paper #6). The text of those sections of Title 35, U.S. Code not otherwise provided in a prior Office action will be included in this action where appropriate.
2. This action is responsive to amendment A filed on 07/02/2003 (see Paper #7). Applicant cancelled claims 1-11, and added new claims 12-20. Claims 12-20 are pending.
3. Claims 12-20 have been examined.

Claim Rejections - 35 USC § 103

4. Claims 1-11 were rejected in Paper #6 under 35 U.S.C. 103(a) as being unpatentable over **Darago et al.** (U.S. Patent No. 6,170,014), and further in view of Official Notice. Applicants cancelled claims 1-11. Therefore, examiner withdraws the rejection.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 12-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Darago et al. (U.S. Patent No. 6,170,014).

Claims 12-16: **Darago et al.** discloses an invention for a sensory assisted presentation system and method that provides support for presenting and selling goods and services through a virtual representation of a product or service, along with perceptible characteristics of the product or service, over a network such as the Internet, for purchase by a user of the system. Additionally, **Darago et al.** discloses the presentation of characteristics of the selected good to a potential buyer, the selected good or service of **Darago et al.** being courseware and other content presented in a shared use operating environment such as a computer network, and the buyer's purchase of the presented good or service. Through the functionality of the invention of Darago et al., applicants' invention is disclosed. **Darago et al.** specifically discloses:

- *In particular, many computer-assisted lessons, training materials, and other instructional courses include works which can be protected under intellectual property laws, such as visual works, audio works, texts, examinations, simulations, and other works. Some sensory works experienced while using computers, such as the physical motions performed with a flight simulator, may also be protected. Still other computer-aided sensory experiences are foreseeable but not yet commercially implemented, such*

as smells that could enhance a fire fighting course or a course on the detection of illegal drugs (col. 1 lines 26-36).

- *The present invention is concerned with network-based courseware delivery systems, as opposed to stand-alone courseware delivery systems (col. 2 lines 55-57).*
- *personal computers in the 1980's mainly manipulated words, numbers, and characters; in the 1990's manipulation of icons, images, audio and video has become commonplace. The next step may include widespread use of motion, as in simulators, and perhaps smell or other additions (col. 3 lines 43-48).*
- *many computer-assisted lessons, training materials, and other instructional courses include works which can be protected under intellectual property laws, such as visual works, audio works, texts, examinations, simulations, and other works. Some sensory works experienced while using computers, such as the physical motions performed with a flight simulator, may also be protected. Still other computer-aided sensory experiences are foreseeable but not yet commercially implemented, such as smells (col. 1 lines 26-34).*
- *The present invention is concerned with network-based courseware delivery systems, as opposed to stand-alone courseware delivery systems (col. 2 lines 55-56).*
- *Under a common relationship between works of intellectual property and the Internet, users view courseware and other information for free. The information is shared for free because providing the information helps the work's owner sell a product, or saves the owner money by reducing technical support costs, for example (col. 5 lines 5-10).*

- *Those of skill in the art will recognize that many of the comments above apply not only to courseware, but also to other types of digital content, including without limitation musical recordings, visual images, and the like. Such content may appear as components of multimedia courseware, but it may also be distributed independently of courseware and/or for purposes other than education. As used herein, "content" includes both courseware and other kinds of digital content. (col. 5 lines 22-30)*
- *Many courses are available on the web, yet in general the more attractive the course is (visually, in activity, motion, video, sound, and so on), the more time it takes to refresh the computer screen at the user's workstation (col. 5 lines 32-35).*
- *The present invention relates to methods, systems, and configured storage media for managing courseware and/or other content in a shared use operating environment. Courseware includes digital instructional and/or entertainment content in the form of software, digitized sounds, digitized images, digitized motion paths, digitized chemical compounds, and other works which can be transmitted over a computer network for presentation to a user and which contain intellectual property that is protectable by copyright, patent, trade secret, trademark, trade dress, moral rights, common law rights, contract, and/or other sources of legal authority (col. 7 lines 39-50).*
- *With the possible exception of registration for free demonstrations, which may be available in some embodiments, registration also obtains billing or payment information such as the user's credit card information, purchase order, and/or sponsor identity (col. 8 lines 48-52).*

- *A conventional approach charging one fee for unlimited use of each machine readable course by a single personal computer 114 or a single location (e.g., a corporation or agency) would be prohibitively expensive (col. 10 lines 28-32).*
- *The funds flow manager 308 accepts payment information such as a purchase order number or a credit card authorization (col. 11 lines 60-62).*
- *In addition to the functionality described above, the registration server 108 may provide advertising and other inducements for Web walkers and potential users of the system 100 to become familiar with the system 100, and to register for services provided through the system 100 (col. 13 lines 6-10).*
- *Unlike the registration server 108, the content server 110 contains courseware and/or other managed content 400. The content 400 may take a variety of forms, including software, video, audio and other types of digital content (col. 13 lines 18-21).*

As presented above, **Darago et al.** discloses the use of simulations to present products' characteristics. While **Darago et al.** does not specifically disclose some particular characteristics as claimed by applicants, the disclosure of **Darago et al.** does specifically disclose the use of content that may take a variety of forms, including software, video, audio and other types of digital content. Additionally, claims 15 and 16 only provide a functional recitation of intended use and don't move to structurally distinguish these claims from the **Darago et al.** reference.

7. Claims 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Darago et al.** (U.S. Patent No. 6,170,014), and further in view of **Manne** (U.S. Patent No. 6,169,595), **Fedrigon et al.** (U.S. Patent No. 6,336,891) and **Schneider** (U.S. Patent No. 5,010,763).

Claims 17, 18, 19, 20: **Darago et al.** discloses an invention for a sensory assisted presentation system and method that provides support for presenting and selling goods and services through a virtual representation of a product or service, along with perceptible characteristics of the product or service, over a network such as the Internet, for purchase by a user of the system. Additionally, **Darago et al.** discloses the presentation of characteristics of the selected good to a potential buyer, the selected good or service of **Darago et al.** being courseware and other content presented in a shared use operating environment such as a computer network, and the buyer's purchase of the presented good or service. **Darago et al.** specifically discloses:

- *In particular, many computer-assisted lessons, training materials, and other instructional courses include works which can be protected under intellectual property laws, such as visual works, audio works, texts, examinations, simulations, and other works. Some sensory works experienced while using computers, such as the physical motions performed with a flight simulator, may also be protected. Still other computer-aided sensory experiences are foreseeable but not yet commercially implemented, such as smells that could enhance a fire fighting course or a course on the detection of illegal drugs (col. 1 lines 26-36).*

- *The present invention is concerned with network-based courseware delivery systems, as opposed to stand-alone courseware delivery systems (col. 2 lines 55-57).*
- *personal computers in the 1980's mainly manipulated words, numbers, and characters; in the 1990's manipulation of icons, images, audio and video has become commonplace. The next step may include widespread use of motion, as in simulators, and perhaps smell or other additions (col. 3 lines 43-48).*
- *many computer-assisted lessons, training materials, and other instructional courses include works which can be protected under intellectual property laws, such as visual works, audio works, texts, examinations, simulations, and other works. Some sensory works experienced while using computers, such as the physical motions performed with a flight simulator, may also be protected. Still other computer-aided sensory experiences are foreseeable but not yet commercially implemented, such as smells (col. 1 lines 26-34).*
- *The present invention is concerned with network-based courseware delivery systems, as opposed to stand-alone courseware delivery systems (col. 2 lines 55-56).*
- *Under a common relationship between works of intellectual property and the Internet, users view courseware and other information for free. The information is shared for free because providing the information helps the work's owner sell a product, or saves the owner money by reducing technical support costs, for example (col. 5 lines 5-10).*
- *Those of skill in the art will recognize that many of the comments above apply not only to courseware, but also to other types of digital content, including without limitation*

musical recordings, visual images, and the like. Such content may appear as components of multimedia courseware, but it may also be distributed independently of courseware and/or for purposes other than education. As used herein, "content" includes both courseware and other kinds of digital content. (col. 5 lines 22-30)

- *Many courses are available on the web, yet in general the more attractive the course is (visually, in activity, motion, video, sound, and so on), the more time it takes to refresh the computer screen at the user's workstation (col. 5 lines 32-35).*

- *The present invention relates to methods, systems, and configured storage media for managing courseware and/or other content in a shared use operating environment. Courseware includes digital instructional and/or entertainment content in the form of software, digitized sounds, digitized images, digitized motion paths, digitized chemical compounds, and other works which can be transmitted over a computer network for presentation to a user and which contain intellectual property that is protectable by copyright, patent, trade secret, trademark, trade dress, moral rights, common law rights, contract, and/or other sources of legal authority (col. 7 lines 39-50).*

- *With the possible exception of registration for free demonstrations, which may be available in some embodiments, registration also obtains billing or payment information such as the user's credit card information, purchase order, and/or sponsor identity (col. 8 lines 48-52).*

- *A conventional approach charging one fee for unlimited use of each machine readable course by a single personal computer 114 or a single location (e.g., a corporation or agency) would be prohibitively expensive (col. 10 lines 28-32).*

- *The funds flow manager 308 accepts payment information such as a purchase order number or a credit card authorization (col. 11 lines 60-62).*
- *In addition to the functionality described above, the registration server 108 may provide advertising and other inducements for Web walkers and potential users of the system 100 to become familiar with the system 100, and to register for services provided through the system 100 (col. 13 lines 6-10).*
- *Unlike the registration server 108, the content server 110 contains courseware and/or other managed content 400. The content 400 may take a variety of forms, including software, video, audio and other types of digital content (col. 13 lines 18-21).*

However, Darago et al. does not specifically disclose said characteristics of (iii) a texture of said product, (iv) a mass of said product, (vi) a temperature of said product, nor (vii) vibrations of said product. Darago et al. does disclose *The content 400 may take a variety of forms, including software, video, audio and other types of digital content* (col. 13 lines 18-21). Additionally, **Manne** discloses a device to deliver various combinations of scents in rapid succession to a user's nose in conjunction with video graphic images and/or sounds. **Fedrigon et al.** discloses an exercise pad system that presents to the user a realistic simulation of the real exercise course through the use of stored video, audio and table files collected from a real exercise course (Abstract). **Schneider** discloses a road simulation device for testing a driverless, stationary motorcycle (abstract) that discloses motion simulation (which encompasses the simulation of the characteristics of iii, iv, vi, and vii above). Each of these references

discloses equivalent characteristics to those of applicants' claimed invention. These disclosures encompass applicants' claimed aspect of storing approximations of characteristics of a product that may include a texture of said product, a mass of the product, a smell of the product, a temperature of the product, and vibrations of the product, and presenting one or more of these aspects to a user of the invention.

Therefore, it would have been obvious to one skilled in the art to modify the disclosure of **Darago et al.** to explicitly disclose said characteristics of (iii) a texture of said product, (iv) a mass of said product, (vi) a temperature of said product, nor (vii) vibrations of said product, as disclosed by the combination of **Manne, Fedrigon et al.** and **Schneider**, for the motivation of facilitating and promoting the purchase of a product through a realistic simulation of the product.

Response to Arguments

8. Applicant's arguments filed 07/07/03 have been fully considered but they are not persuasive.

Applicants argue, at pg. 5-8, that the prior art does not disclose their invention, and that Darago et al. is not suitable prior art to be applied in the rejection of applicants' invention, as it is a reference directed to securely delivering commercial courseware and related type information over a networked system to authorized users.

Examiner disagrees. Darago et al. discloses presenting and selling goods and services through a virtual representation of a product or service, along with perceptible

characteristics of the product or service, over a network such as the Internet, for purchase by a user of the system, as disclosed in section 5 above. Darago et al. discloses the following aspects that pertain to offering a product for sale:

- under a common relationship between works of intellectual property and the Internet, users view courseware and other information for free, because providing the information helps the work's owner sell a product, or saves the owner money by reducing technical support costs, for example (col. 5 lines 5-10);
- presenting courseware and other content in a shared use operating environment to users (col. 7 lines 39-50);
- presenting demonstrations of offered courseware and other content (col. 8 lines 48-52); and,
- In addition to the functionality described above, the registration server 108 may provide advertising and other inducements for Web walkers and potential users of the system 100 to become familiar with the system 100, and to register for services provided through the system 100 (col. 13 lines 6-10).

This disclosure encompasses the sale of a product offered on the Internet, in combination with the disclosures of Darago et al. presented in section 5 above, as claimed by applicants.

Therefore, examiner maintains the rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Prior art includes:


- **Kaslon** (U.S. Patent No. 6,542,442) discloses a scent emitting device that emits a scent in response to receiving an appropriate signal (Abstract).
- **Nagamitsu et al.** (U.S. Patent No. 5,590,062) discloses a simulator with which one predicts and confirms various living environments mainly by visual perception and further by auditory perception when planning a house.

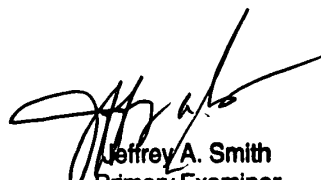
- "GET A WHIFF OF THIS: AND NOW, CYBERSCENT;" Times-Picayune; New Orleans, LA; 25 May 2000, discloses the use of smell in combination with a user's experience on the Internet..

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Forest Thompson Jr. whose telephone number is (703) 306-5449. The examiner can normally be reached on 6:30-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on (703) 308-1344. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

FT 
09/17/2003


Jeffrey A. Smith
Primary Examiner